



General Assembly

## ***Amendment***

***February Session, 2016***

**LCO No. 4914**



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Offered by:

SEN. FASANO, 34<sup>th</sup> Dist.

SEN. KELLY, 21<sup>st</sup> Dist.

To: Subst. House Bill No. **5232**

File No. 174

Cal. No. 486

### ***"AN ACT CONCERNING THE INSURERS REHABILITATION AND LIQUIDATION ACT."***

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 38a-567 of the 2016 supplement to the general  
4 statutes is repealed and the following is substituted in lieu thereof  
5 (*Effective January 1, 2017*):

6 Health insurance plans, associations of small employers and other  
7 insurance arrangements covering small employers and insurers and  
8 producers marketing such plans and arrangements shall be subject to  
9 the following provisions:

10 (1) (A) Any such plan or arrangement shall be offered on a  
11 guaranteed issue basis with respect to all eligible employees or  
12 dependents of such employees, at the option of the small employer,  
13 policyholder or contractholder, as the case may be.

14 (B) Any such plan or arrangement shall be renewable with respect  
15 to all eligible employees or dependents at the option of the small  
16 employer, policyholder or contractholder, as the case may be, except:  
17 (i) For nonpayment of the required premiums by the small employer,  
18 policyholder or contractholder; (ii) for fraud or misrepresentation of  
19 the small employer, policyholder or contractholder or, with respect to  
20 coverage of individual insured, the insureds or their representatives;  
21 (iii) for noncompliance with plan or arrangement provisions; (iv) when  
22 the number of insureds covered under the plan or arrangement is less  
23 than the number of insureds or percentage of insureds required by  
24 participation requirements under the plan or arrangement; or (v) when  
25 the small employer, policyholder or contractholder is no longer  
26 actively engaged in the business in which it was engaged on the  
27 effective date of the plan or arrangement.

28 (C) Renewability of coverage may be effected by either continuing  
29 in effect a plan or arrangement covering a small employer or by  
30 substituting upon renewal for the prior plan or arrangement the plan  
31 or arrangement then offered by the carrier that most closely  
32 corresponds to the prior plan or arrangement and is available to other  
33 small employers. Such substitution shall only be made under  
34 conditions approved by the commissioner. A carrier may substitute a  
35 plan or arrangement as set forth in this subparagraph only if the  
36 carrier effects the same substitution upon renewal for all small  
37 employers previously covered under the particular plan or  
38 arrangement, unless otherwise approved by the commissioner. The  
39 substitute plan or arrangement shall be subject to the rating restrictions  
40 specified in this section on the same basis as if no substitution had  
41 occurred, except for an adjustment based on coverage differences.

42 (D) Any such plan or arrangement shall provide special enrollment  
43 periods (i) to all eligible employees or dependents as set forth in 45  
44 CFR 147.104, as amended from time to time, [and] (ii) for coverage  
45 under such plan or arrangement ordered by a court for a spouse or  
46 minor child of an eligible employee where request for enrollment is  
47 made not later than thirty days after the issuance of such court order,

48 and (iii) to all eligible pregnant employees at any time after the  
49 commencement of the pregnancy, as certified by a physician licensed  
50 under chapter 370 or an advanced practice registered nurse licensed  
51 under chapter 378, acting within the scope of such physician's or  
52 nurse's scope of practice. Coverage under subparagraph (D)(iii) of this  
53 subdivision shall be effective as of the first of the month in which the  
54 employee receives such certification.

55 (2) (A) As used in this subdivision, "grandfathered plan" has the  
56 same meaning as "grandfathered health plan" as provided in the  
57 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
58 from time to time.

59 (B) With respect to grandfathered plans issued to small employers,  
60 the premium rates charged or offered shall be established on the basis  
61 of a single pool of all grandfathered plans, adjusted to reflect one or  
62 more of the following classifications:

63 (i) Age, provided age brackets of less than five years shall not be  
64 utilized;

65 (ii) Gender;

66 (iii) Geographic area, provided an area smaller than a county shall  
67 not be utilized;

68 (iv) Industry, provided the rate factor associated with any industry  
69 classification shall not vary from the arithmetic average of the highest  
70 and lowest rate factors associated with all industry classifications by  
71 greater than fifteen per cent of such average, and provided further, the  
72 rate factors associated with any industry shall not be increased by  
73 more than five per cent per year;

74 (v) Group size, provided the highest rate factor associated with  
75 group size shall not vary from the lowest rate factor associated with  
76 group size by a ratio of greater than 1.25 to 1.0;

77 (vi) Administrative cost savings resulting from the administration of

78 an association group plan or a plan written pursuant to section 5-259,  
79 provided the savings reflect a reduction to the small employer carrier's  
80 overall retention that is measurable and specifically realized on items  
81 such as marketing, billing or claims paying functions taken on directly  
82 by the plan administrator or association, except that such savings may  
83 not reflect a reduction realized on commissions;

84 (vii) Savings resulting from a reduction in the profit of a carrier that  
85 writes small business plans or arrangements for an association group  
86 plan or a plan written pursuant to section 5-259, provided any loss in  
87 overall revenue due to a reduction in profit is not shifted to other small  
88 employers; and

89 (viii) Family composition, provided the small employer carrier shall  
90 utilize only one or more of the following billing classifications: (I)  
91 Employee; (II) employee plus family; (III) employee and spouse; (IV)  
92 employee and child; (V) employee plus one dependent; and (VI)  
93 employee plus two or more dependents.

94 (C) (i) With respect to nongrandfathered plans issued to small  
95 employers, the premium rates charged or offered shall be established  
96 on the basis of a single pool of all nongrandfathered plans, adjusted to  
97 reflect one or more of the following classifications:

98 (I) Age, in accordance with a uniform age rating curve established  
99 by the commissioner;

100 (II) Geographic area, as defined by the commissioner.

101 (ii) Total premium rates for family coverage for nongrandfathered  
102 plans shall be determined by adding the premiums for each individual  
103 family member, except that with respect to family members under  
104 twenty-one years of age, the premiums for only the three oldest  
105 covered children shall be taken into account in determining the total  
106 premium rate for such family.

107 (iii) Premium rates for employees and dependents for

108 nongrandfathered plans shall be calculated for each covered individual  
109 and premium rates for the small employer group shall be calculated by  
110 totaling the premiums attributable to each covered individual.

111 (iv) Premium rates for any given plan may vary by (I) actuarially  
112 justified differences in plan design, and (II) actuarially justified  
113 amounts to reflect the policy's provider network and administrative  
114 expense differences that can be reasonably allocated to such policy.

115 (3) No small employer carrier or producer shall, directly or  
116 indirectly, engage in the following activities:

117 (A) Encouraging or directing small employers to refrain from filing  
118 an application for coverage with the small employer carrier because of  
119 the health status, claims experience, industry, occupation or  
120 geographic location of the small employer, except the provisions of  
121 this subparagraph shall not apply to information provided by a small  
122 employer carrier or producer to a small employer regarding the  
123 carrier's established geographic service area or a restricted network  
124 provision of a small employer carrier; or

125 (B) Encouraging or directing small employers to seek coverage from  
126 another carrier because of the health status, claims experience,  
127 industry, occupation or geographic location of the small employer.

128 (4) No small employer carrier shall, directly or indirectly, enter into  
129 any contract, agreement or arrangement with a producer that provides  
130 for or results in the compensation paid to a producer for the sale of a  
131 health benefit plan to be varied because of the health status, claims  
132 experience, industry, occupation or geographic area of the small  
133 employer. A small employer carrier shall provide reasonable  
134 compensation, as provided under the plan of operation of the  
135 program, to a producer, if any, for the sale of a health care plan. No  
136 small employer carrier shall terminate, fail to renew or limit its  
137 contract or agreement of representation with a producer for any reason  
138 related to the health status, claims experience, occupation, or  
139 geographic location of the small employers placed by the producer

140 with the small employer carrier.

141 (5) No small employer carrier or producer shall induce or otherwise  
142 encourage a small employer to separate or otherwise exclude an  
143 employee from health coverage or benefits provided in connection  
144 with the employee's employment.

145 (6) No small employer carrier or producer shall disclose (A) to a  
146 small employer the fact that any or all of the eligible employees of such  
147 small employer have been or will be reinsured with the pool, or (B) to  
148 any eligible employee or dependent the fact that he has been or will be  
149 reinsured with the pool.

150 (7) If a small employer carrier enters into a contract, agreement or  
151 other arrangement with another party to provide administrative,  
152 marketing or other services related to the offering of health benefit  
153 plans to small employers in this state, the other party shall be subject  
154 to the provisions of this section.

155 (8) The commissioner may adopt regulations, in accordance with the  
156 provisions of chapter 54, setting forth additional standards to provide  
157 for the fair marketing and broad availability of health benefit plans to  
158 small employers.

159 (9) Any violation of subdivisions (3) to (7), inclusive, of this section  
160 and of any regulations established under subdivision (8) of this section  
161 shall be an unfair and prohibited practice under sections 38a-815 to  
162 38a-830, inclusive.

163 Sec. 502. Subsection (g) of section 38a-481 of the 2016 supplement to  
164 the general statutes is repealed and the following is substituted in lieu  
165 thereof (*Effective January 1, 2017*):

166 (g) (1) As used in this subsection, "Affordable Care Act" means the  
167 Patient Protection and Affordable Care Act, P.L. 111-148, as amended  
168 from time to time, and regulations adopted thereunder, and  
169 "grandfathered plan" has the same meaning as "grandfathered health

170 plan" as provided in the Affordable Care Act.

171 (2) Each individual health insurance policy subject to the Affordable  
172 Care Act shall (A) be offered on a guaranteed issue basis with respect  
173 to all eligible individuals or dependents, and (B) provide special  
174 enrollment periods (i) to all eligible individuals or dependents as set  
175 forth in 45 CFR 147.104, as amended from time to time, and (ii) to all  
176 eligible pregnant individuals at any time after the commencement of  
177 the pregnancy, as certified by a physician licensed under chapter 370  
178 or an advanced practice registered nurse licensed under chapter 378,  
179 acting within the scope of such physician's or nurse's scope of practice.  
180 Coverage under subparagraph (B)(ii) of this subdivision shall be  
181 effective as of the first of the month in which the employee receives  
182 such certification.

183 (3) With respect to grandfathered plans of a policy under  
184 subdivision (2) of this subsection, the premium rates charged or  
185 offered shall be established on the basis of a single pool of all  
186 grandfathered plans.

187 (4) With respect to nongrandfathered plans of a policy under  
188 subdivision (2) of this subsection:

189 (A) The premium rates charged or offered shall be established on  
190 the basis of a single pool of all nongrandfathered plans, adjusted to  
191 reflect one or more of the following classifications:

192 (i) Age, in accordance with a uniform age rating curve established  
193 by the commissioner;

194 (ii) Geographic area, as defined by the commissioner;

195 (iii) Tobacco use, except that such rate may not vary by a ratio of  
196 greater than 1.5 to 1.0 and may only be applied with respect to  
197 individuals who may legally use tobacco under state and federal law.  
198 For purposes of this subparagraph, "tobacco use" means the use of  
199 tobacco products four or more times per week on average within a

200 period not longer than the six months immediately preceding.  
201 "Tobacco use" does not include the religious or ceremonial use of  
202 tobacco;

203 (B) Total premium rates for family coverage shall be determined by  
204 adding the premiums for each individual family member, except that  
205 with respect to family members under twenty-one years of age, the  
206 premiums for only the three oldest covered children shall be taken into  
207 account in determining the total premium rate for such family.

208 (5) Premium rates for a grandfathered or nongrandfathered policy  
209 under subdivision (2) of this subsection may vary by (A) actuarially  
210 justified differences in plan design, and (B) actuarially justified  
211 amounts to reflect the policy's provider network and administrative  
212 expense differences that can be reasonably allocated to such policy.

213 Sec. 503. Subsection (a) of section 38a-183 of the 2016 supplement to  
214 the general statutes is repealed and the following is substituted in lieu  
215 thereof (*Effective January 1, 2017*):

216 (a) (1) A health care center governed by sections 38a-175 to 38a-192,  
217 inclusive, shall not enter into any agreement with subscribers unless  
218 and until it has filed with the commissioner a full schedule of the  
219 amounts to be paid by the subscribers and has obtained the  
220 commissioner's approval thereof. Such filing shall include an actuarial  
221 memorandum that includes, but is not limited to, pricing assumptions  
222 and claims experience, and premium rates and loss ratios from the  
223 inception of the contract or policy. The commissioner may refuse such  
224 approval if the commissioner finds such amounts to be excessive,  
225 inadequate or discriminatory. As used in this subsection, "loss ratio"  
226 means the ratio of incurred claims to earned premiums by the number  
227 of years of policy duration for all combined durations.

228 (2) Premium rates and special enrollment periods offered to  
229 individuals shall be consistent with the requirements set forth in  
230 section 38a-481, as amended by this act.



231 (3) Premium rates and special enrollment periods offered to small  
232 employers, as defined in section 38a-564, shall be consistent with the  
233 requirements set forth in section 38a-567, as amended by this act.

234 (4) No such health care center shall enter into any agreement with  
235 subscribers unless and until it has filed with the commissioner a copy  
236 of such agreement or agreements, including all riders and  
237 endorsements thereon, and until the commissioner's approval thereof  
238 has been obtained. The commissioner shall, within a reasonable time  
239 after the filing of any request for an approval of the amounts to be  
240 paid, any agreement or any form, notify the health care center of the  
241 commissioner's approval or disapproval thereof.

242 Sec. 504. Section 38a-208 of the 2016 supplement to the general  
243 statutes is repealed and the following is substituted in lieu thereof  
244 (*Effective January 1, 2017*):

245 (a) No such corporation shall enter into any contract with  
246 subscribers unless and until it has filed with the Insurance  
247 Commissioner a full schedule of the rates to be paid by the subscribers  
248 and has obtained said commissioner's approval thereof. Such filing  
249 shall include an actuarial memorandum that includes, but is not  
250 limited to, pricing assumptions and claims experience, and premium  
251 rates and loss ratios from the inception of the contract. The  
252 commissioner may refuse such approval if the commissioner finds  
253 such rates to be excessive, inadequate or discriminatory. As used in  
254 this subsection, "loss ratio" means the ratio of incurred claims to  
255 earned premiums by the number of years of policy duration for all  
256 combined durations.

257 (b) Premium rates and special enrollment periods offered to  
258 individuals shall be consistent with the requirements set forth in  
259 section 38a-481, as amended by this act.

260 (c) Premium rates and special enrollment periods offered to small  
261 employers, as defined in section 38a-564, shall be consistent with the  
262 requirements set forth in section 38a-567, as amended by this act.

263 (d) No hospital service corporation shall enter into any contract with  
264 subscribers unless and until it has filed with the Insurance  
265 Commissioner a copy of such contract, including all riders and  
266 endorsements thereof, and until said commissioner's approval thereof  
267 has been obtained. The Insurance Commissioner shall, within a  
268 reasonable time after the filing of any such form, notify such  
269 corporation of the commissioner's approval or disapproval thereof.

270 Sec. 505. Section 38a-218 of the 2016 supplement to the general  
271 statutes is repealed and the following is substituted in lieu thereof  
272 (*Effective January 1, 2017*):

273 (a) No such medical service corporation shall enter into any contract  
274 with subscribers unless and until it has filed with the Insurance  
275 Commissioner a full schedule of the rates to be paid by the subscriber  
276 and has obtained said commissioner's approval thereof. Such filing  
277 shall include an actuarial memorandum that includes, but is not  
278 limited to, pricing assumptions and claims experience, and premium  
279 rates and loss ratios from the inception of the contract. The  
280 commissioner may refuse such approval if the commissioner finds  
281 such rates are excessive, inadequate or discriminatory. As used in this  
282 subsection, "loss ratio" means the ratio of incurred claims to earned  
283 premiums by the number of years of policy duration for all combined  
284 durations.

285 (b) Premium rates and special enrollment periods offered to  
286 individuals shall be consistent with the requirements set forth in  
287 section 38a-481, as amended by this act.

288 (c) Premium rates and special enrollment periods offered to small  
289 employers, as defined in section 38a-564, shall be consistent with the  
290 requirements set forth in section 38a-567, as amended by this act.

291 (d) No such medical service corporation shall enter into any contract  
292 with subscribers unless and until it has filed with the Insurance  
293 Commissioner a copy of such contract, including all riders and  
294 endorsements thereof, and until said commissioner's approval thereof

295 has been obtained. The Insurance Commissioner shall, within a  
296 reasonable time after the filing of any such form, notify such  
297 corporation of the commissioner's approval or disapproval thereof."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>January 1, 2017</i>	38a-567
Sec. 502	<i>January 1, 2017</i>	38a-481(g)
Sec. 503	<i>January 1, 2017</i>	38a-183(a)
Sec. 504	<i>January 1, 2017</i>	38a-208
Sec. 505	<i>January 1, 2017</i>	38a-218